FILED
FEB 10 1988
JOSEPH E. SPANIOL, JR.
CLERK

No. 87-872

IN THE

Supreme Court of the United States

OCTOBER TERM 1987

THE TIMES-PICAYUNE PUBLISHING CORPORATION, GANNETT NEWS SERVICE, INC., CAPITAL CITY PRESS, JOHN MARVIN HILL, MARK SCHLEIFSTEIN, BRIDGET O'BRIAN, AND LINDA LIGHTFOOT,

Petitioners,

v.

EDWIN W. EDWARDS, MARION EDWARDS, GUS MIJALIS, JAMES J. WYLLIE, JR., AND RONALD F. FALGOUT,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For the Fifth Circuit

BRIEF FOR RESPONDENTS IN OPPOSITION

MICHAEL S. FAWER
530 Natchez Street
Suite 200
New Orleans, LA 70130
(504) 525-1500

Attorney for Respondent Edwin W. Edwards

WILLIAM H. JEFFRESS, JR.*
MARY L. LYONS
MILLER, CASSIDY, LARROCA & LEWIN
2555 M Street, N.W., Suite 500
Washington, D.C. 20037
(202) 293-6400

Attorneys for Respondent Ronald F. Falgout

*Counsel of Record

CASILLAS PRESS INC. 1717 K ST NW WASHINGTON DC 20036 – 223-1220

COUNTERSTATEMENT OF THE QUESTION PRESENTED

Whether the First Amendment prohibits a trial judge in the midst of a highly publicized criminal proceeding from interviewing jurors in chambers concerning possible juror improprieties without affording representatives of the press prior notice and an opportunity to be heard as to whether they should be permitted to attend.

TABLE OF CONTENTS

COUNTERSTATEMENT OF QUESTION PRESENTED.....(i)

OPINIONS BELOW.....1

JURISDICTION.....2

STATEMENT.....2

REASONS FOR DENYING THE WRIT.....15

CONCLUSION.....28

TABLE OF AUTHORITIES

CASES CITED:

Chandler v. Florida, 449 U.S. 560 (1981).....25

Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982).....22

In re Reporters Committee for Freedom of the Press, 773 F.2d 1325 (D.C. Cir. 1985).....17-18

Mares v. United States, 383 F.2d 805 (10th Cir. 1967), cert. denied, 394 U.S. 963 (1969).....24

Nebraska Press Ass'n v. Stuart, 427 U.S. 539 (1976).....25

Press-Enterprise Co. v. Superior Court, ___ U.S. ___, 106 S.Ct. 2735 (1986).....17

Remmer v. United States, 347 U.S. 227 (1954).....25

Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980) 12, 17, 21

Rovinsky v. McKaskle, 722 F.2d 197 (5th Cir. 1984).....24

Rushen v. Spain, 464 U.S. 114 (1983)....22

Sheppard v. Maxwell, 384 U.S. 333 (1966).....25

United States v. Anderson, 799 F.2d 1438 (11th Cir. 1986).....20-21

United States v. Barshov, 733 F.2d 842 (11th Cir. 1984), cert. denied, 469 U.S. 1158 (1985).....25

United States v. Corbin, 590 F.2d 398 (1st Cir. 1979).....20

United States v. Crisona, 416 F.2d 107 (2d Cir. 1969), cert. denied sub nom. DeLyra v. United States, 397 U.S. 961 (1970).....19

United States v. Gagnon, 470 U.S. 522 (1985) 22

United States v. Gurney, 558 F.2d 1202 (5th Cir. 1977), cert. denied sub nom. Miami Herald Publishing Co. v. Krentzman, 435 U.S. 968 (1978).....12, 20

United States v. Harrelson, 713 F.2d 1114 (5th Cir. 1983), cert. denied sub nom. El Paso Times, Inc. v. United States District Court, 465 U.S. 1041 (1984).....12, 20, 21

United States v. Jones, 542 F.2d 186 (4th Cir.), cert. denied, 426 U.S. 922 (1976).....19

United States v. Musto, 540 F.Supp. 318 (D.N.J. 1982).....19

United States v. Rizzo, 304 F.2d 810 (8th Cir.), cert. denied sub nom. Nafie v. United States, 371 U.S. 890 (1962).....20

United States v. Williams, 568 F.2d 464 (5th Cir. 1978).....25

United States v. Woodner, 317 F.2d 649 (2d Cir.), cert. denied, 375 U.S. 903 (1963).....19-20

UNITED STATES CODE CITED:

Title 28, Section 1254(1) (1982).....2

No. 87-872

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1987

THE TIMES-PICAYUNE PUBLISHING CORPORATION, GANNETT NEWS SERVICE, INC., CAPITAL CITY PRESS, JOHN MARVIN HILL, MARK SCHLEIFSTEIN, BRIDGET O'BRIAN, AND LINDA LIGHTFOOT,

Petitioners,

v.

EDWIN W. EDWARDS, MARION EDWARDS, GUS MIJALIS, JAMES J. WYLLIE, JR., AND RONALD F. FALGOUT,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For the Fifth Circuit

---

BRIEF OF RESPONDENTS IN OPPOSITION

OPINIONS BELOW

The opinion of the Court of Appeals (Pet.App. 1a-19a) is reported at 823 F.2d

111. The three orders of the District Court (Pet.App. 22a-31a) are not reported.

JURISDICTION

The judgment of the Court of Appeals was entered on July 31, 1987. On August 31, 1987, the same court denied a timely petition for rehearing. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1254(1).

STATEMENT

On February 28, 1985, a federal grand jury indicted the Governor of Louisiana, Edwin Edwards, and six other individuals for alleged violations of the federal racketeering mail and wire fraud statutes. When the trial began in September, 1985, the jury was not sequestered. All trial participants were, however, under a court order prohibiting them from discussing the case publicly (Order, United States District Court, March 8, 1985). On

December 18, 1985, after three months of trial, the jury reported it was unable to reach a unanimous decision on any of the counts relating to Edwards and four other defendants. The Court accordingly declared a mistrial (Pet.App. 2a).

The government chose to retry the defendants and moved to have the jury in the second trial sequestered. Such a drastic course was, in its view, necessary to "protect[] [the jury] from all bias from outside influences" during the course of the trial. Over defense objection, the trial court granted the government's request. 1/ The retrial began March 24,

---

1/ In its response to the defendants' Opposition, the government offered several additional justifications for sequestration. It noted that during the first trial, "one of the defense counsel stated that he had received information that a juror's vote could be bought for $25,000. The source of this information indicated he was 'joking' when approached. Since there was no way to dispute this claim, the investigation was dropped." In addition on December 12, (cont'd.)

1986, with the jurors housed in a hotel in the custody of the U.S. Marshal.

1. The First Conference Concerning A Juror

On not one but two occasions during the retrial, the District Court was presented with reports by jurors to the Marshal of comments by other jurors indicating possible improprieties. On April 17, 1986, a marshal reported that one juror had told him that another juror on the panel had remarked that "the last jury got paid for voting acquittal" (Pet.App. 3a). The Court and counsel conferred on record in chambers about how best to handle the matter (Pet.App. 3a). In an effort to avoid intimidating jurors, the Court, the prosecutor and two repre-

---

1985, the FBI had received an anonymous letter which alleged that "at least one maybe two of the jurors in the Governor's case ha[d] been compromised." Investigation of these reports failed to substantiate either of the allegations.

sentatives of counsel for the five defendants were the only ones present in chambers when questioning the jurors involved regarding the incident (Pet.App. 3a). No defendants were present. The juror who had allegedly made the remark denied the truth of the report, indicating that whatever he had said had simply been misconstrued. (Pet.App. 3a). In an effort to satisfy himself that such remarks had not been made to other jurors on the panel, the prosecutor suggested that the court question each individually (R.E. 90). 2/ At the end of this questioning,

---

2/ When defense counsel requested that counsel for all five defendants be present during the remaining interviews, however, the prosecutor raised the possibility that the proceedings be held in open court (Pet.App. 3a). The government renewed this statement when one defense attorney suggested "[w]e [could] try to get in the back" of the room (R.E. 95). When defense counsel agreed to continue the proceedings in the same manner (R.E. 95), no further suggestions that "the proceedings be conducted in open court" (Pet. at 4) were heard from the government.

which consumed approximately two hours in the course of what would become a six-week trial, motions to excuse the juror were discussed and then denied (Pet.App. 3a).

That afternoon, after media representatives had filed an objection to the conduct of the proceedings (Pet.App. 3a), the District Court outlined the rationale behind its recently filed order sealing the record of that morning's events and ordering all participants not to discuss the matter publicly (Pet.App. 22a):

> Although this jury is sequestered, there is a possibility, however slight, that specifics regarding the incident and the motions may reach the jurors. There has already been an instance which the Marshals mistakenly did not delete a small newspaper article about this case from the newspaper before allowing the jurors to read it. Although that particular incident was harmless, I do not wish to risk the possibility of specifics of this matter reaching the jury.

On April 21, 1986, the petitioners filed a Notice of Appeal from the District

Court's Order. With that notice, the petitioners also moved to take an emergency appeal (Pet.App. 4a n.2), contending that their First Amendment rights had been violated.

2. The Second Conference Concerning a Juror

Several days later, the District Court was again informed by a deputy marshal of a report suggesting irregularities on the part of the jury (Pet.App. 3a-4a). According to the report, one juror had told another juror that each time the jury was dismissed, one of the defendants would smile at him and display an envelope (Pet.App. 3a-4a). The first juror had stated to the other juror that he could not help the defendant for less than $5,000 (Pet.App. 4a).

The District Court summoned counsel to chambers and proceeded to question the two jurors involved. 3/ Although both

were initially reticent in speaking about the statement (R.E. 131; 138-139), the repeated assurances of both the court and counsel that he was "not in any trouble" served to encourage the first juror to admit that he had merely been joking (R.E. 138-139). Again, motions to excuse the juror in question were discussed and then denied (R.E. 154).

Early that afternoon, the Court issued an order so that the public would be apprised, to the extent necessary, of that morning's proceeding (Pet.App. 4a). The transcript, however was to remain sealed because of the "possibility of specifics reaching the jury" (Pet.App. 4a). In the Court's view, the potential consequences of that precise possibility "would be devastating to all parties'

3/ Even though all counsel were present at this point, no suggestion was heard from the government that the proceedings be held in open court.

rights to a fair trial." (Pet.App. 24a). While noting that "[a]ll critical stages of this proceeding have been conducted in open court" (Pet.App. 25a), the "impartiality of the jury and the attendant rights of the parties" required the sealing of that morning's conference and a ban on public comment concerning it (Pet.App. 25a).

Following the District Court's order, the petitioners supplemented their earlier filings in the Court of Appeals to challenge the trial court's management of the second in-chambers inquiry. On May 9, 1986, a panel of the Fifth Circuit unanimously rejected the petitioners' Motion for Emergency Appeal. Based on the record before it, which included the full transcript of the challenged proceedings, the panel was, at that time, "unable to . . . conclude that the district court erred or abused its discretion in excluding the

public from the in-chambers proceedings" or in thereafter sealing the transcripts and imposing a ban on public comment (Pet.App. 21a). The ruling did not address the eventual unsealing of the transcripts after trial; the court specifically noted that such matters should be addressed to the district court in the first instance (Pet.App. 21a). The following day, the jury returned a verdict of not guilty as to all defendants.

3. The District Court Unseals The Transcripts

Following the Court of Appeal's denial of the petitioners' emergency appeal and the verdict of the jury, the District Court issued a final order affording the petitioners substantially all the relief they sought. Noting that the rights of the press and the public to the transcripts "weigh[ed] heavily" in his decision now that trial had ended

(Pet.App. 28a), the Court released redacted transcripts from which it had eliminated the names of the jurors, portions of the transcript that included "comments made by counsel which are not part of the arguments on the motions to excuse" and which dealt with either "procedural matters" or the credibility of particular jurors. The Court then lifted the prohibitions on public comment, except as to those matters remaining under seal. 4/

4/ The petitioners' claim that the transcripts may contain "contemporaneous comments . . . on the propriety of holding closed proceedings over the objections of the petitioners" (Pet. 7) is sheer speculation. The full sealed transcript was made available to the court of appeals, which "reviewed the full transcript of the closed proceedings and conclude[d] that the excised portions [were] within the gamut of issues discussed in bench conferences." (Pet.App. 18a).

4. The Decision of The Court of Appeals

On appeal from this order by the petitioners, the Court of Appeals unanimously affirmed. Relying on its decisions in United States v. Harrelson, 713 F.2d 1114 (5th Cir. 1983) and United States v. Gurney, 558 F.2d 1202 (5th Cir. 1977) as well as this Court's pronouncements in Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555 (1980) and its progeny, the Court of Appeals observed that the conduct of midtrial proceedings involving the questioning of jurors enjoyed a long tradition of closure (Pet.App. 10a). And, as with bench conferences, the protection of their privacy was "subject to the broad discretion of the trial court" (Pet.App. 10a-11a). Accordingly, it rejected the petitioner's contention that such proceedings should simply be viewed as "supplemental voir dire," emphasizing that the process of

ferreting out possible juror improprieties was "different in several respects from the other types of proceedings found by the [Supreme Court] to be presumptively open -- differences not of degree, but of kind" (Pet.App. 11a; footnote omitted):

> Wrenched from their neutral posture, the jurors themselves are suddenly cast on the defensive, facing counsel who are now their cross-examiners, a most difficult situation for all. During voir dire of potential jurors, counsel is armed both with challenges for cause and with peremptory challenges; counsel can probe to elicit indications of bias. Here, the jury, with a limited number of alternates is fixed.

The opinion further explained why conducting this proceeding in open court would be especially upsetting to the jurors and disruptive of the trial (Pet.App. 11a-12a):

> This process itself can create undesirable bias against the defendants whom counsel represent. The deleterious effects can only be exacerbated by requiring jurors to "defend" themselves in open court. As

> the process takes on an adversarial nature, counsel will likely demand recusals, even of those jurors whom they believe were not biased before the proceeding.

Far from advancing any "significant positive role" at trial, forcing a court to hold the questioning of impaneled jurors in open court could bring with it a "substantial probability" that what may have begun as a "tempest in a teapot" in the case before it "will end in a mistrial, a hung jury, or a reversal on appeal" (Pet.App. 12a). Thus, the "interest in preserving the jury as an impartial, functioning, deliberative body is not only a higher value than that served by openness here, it is a sine qua non of our system of criminal justice" (Pet.App. 12a). Accordingly, no right of access attached to the proceedings, and the District Court did not err in failing to provide a preclosure hearing (Pet.App. 12a). 5/

REASONS FOR DENYING THE WRIT

In the course of a lengthy, highly publicized criminal trial, judges are frequently presented with reports by jurors themselves, or by the parties, or by third persons suggesting that a juror may have violated a rule, been exposed to extraneous influences, made improper remarks to others concerning the trial, or engaged in some other questionable conduct. This is particularly true where, as in this case, the jurors are sequestered, and spend all their time in the company of each other and the U.S. Marshals. These reports require inquiry by the Court, but

---

5/ The Court also upheld the the district court's post-trial issuance of redacted transcripts of those proceedings on the basis that, despite sequestration, "mid-trial publicity does continue to threaten the impartiality of the jurors" (Pet.App. 15a). Moreover, the limited excisions ultimately made by the trial court were both "justified" and "within its discretion" (Pet.App. 17a).

upon inquiry, are usually found to be of no consequence to the trial.

The principle the petitioners seek to establish in this case would require a trial judge either to question jurors concerning these reports in open court or -- before making any such inquiry -- to conduct an adversary hearing at which the position of the news media is solicited as to whether the inquiry may be held at the bench or in chambers. Such a principle would seriously limit the ability of trial judges to deal with matters affecting individual jurors quickly, informally and with minimum risk of disrupting the trial. No court has ever suggested that such a principle is required by the First Amendment, and the court of appeals in this case properly rejected the petitioners' argument. Review by this Court is unwarranted.

In deciding whether the public has a First Amendment right of access to a particular proceeding, both this Court and others have looked to two considerations: historical practice and public policy. See Press-Enterprise Co. v. Superior Court, ____ U.S. ____, 106 S.Ct. 2735, 2740-41 (1986); Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 569-73 (1980). "If the particular proceeding in question passes these tests of experience and logic, a qualified First Amendment right of public access attaches." Press-Enterprise Co., supra, 106 S.Ct. at 2741. Thus, as then-Judge Scalia observed, "a historical tradition of at least some duration" which would "play 'an essential role' in the proper functioning of government" is "obviously necessary" before a constitutional requirement of access can be imposed. In re Reporters Committee for Freedom of the Press, 773

F.2d 1325, 1332 (D.C. Cir. 1985). In the absence of both considerations -- as the Court of Appeals concluded here -- neither a right of public access nor a right to a hearing on the closure issue exists. 6/

1. The Court of Appeals correctly found that a trial judge's management of matters involving possible jury misconduct, including decisions as to whether a proceeding should be held in open court, at the bench or in chambers, has "historically been subject to the broad discretion of the trial court." (Pet.App. 11a).

6/ Having found no First Amendment right of access to the juror interviews at issue, the Court of Appeals did not have to reach the issue of whether the District Court erred in failing to afford the petitioners a prior opportunity to be heard in opposition to the in camera conferences. Nonetheless, the court stated that due to the "precipitious" presentation of both reports and the nature of the proceedings that ensued, it saw "no need" for the court to halt the proceedings "to provide a midcourse discussion of reasonable alternatives to closure" (Pet.App. 13a, n.5).

That such proceedings are customarily handled out of the presence of the press and public, whenever the questioning might subject a juror to any anguish or embarrassment or threaten to disrupt the proceeding, is well known to experienced trial judges and counsel in criminal cases, and is illustrated by United States v. Jones, 542 F.2d 186, 195 (4th Cir.), cert. denied, 426 U.S. 922 (1976) (when an issue of juror misconduct arises, a trial court should privately interrogate them, on the record, and in the presence of counsel); United States v. Crisona, 416 F.2d 107, 119 (2d Cir. 1969), cert. denied, 397 U.S. 961 (1970) (in chambers inquiry of jurors "reasonable under the circumstances"); United States v. Musto, 540 F.Supp. 318 (D.N.J. 1982) (voir dire examination of juror held in chambers with counsel present); cf. United States v. Woodner, 317 F.2d 649 (2d Cir.),

cert. denied, 375 U.S. 903 (1963). As the Eighth Circuit acknowledged in United States v. Rizzo, 304 F.2d 810, 816 (8th Cir.), cert. denied sub nom. Nafie v. United States, 371 U.S. 890 (1962), such an examination of jurors

> presents a very delicate and troublesome situation. There is then the present possibility of punishment for misconduct. The trial then being under way, the situation is fraught with grave possibilities in the matter of mistrial.

Because "[a] district court has broad, though not unlimited, discretion to determine the extent and nature of its inquiry into allegations of juror bias" (see United States v. Corbin, 590 F.2d 398, 400 (1st Cir. 1979)), it need not hold hearings or make fact-findings to support its orders in such matters. United States v. Harrelson, supra, 713 F.2d at 1117. Accord, Gurney, supra, 558 F.2d at 1211 n. 15; United States v. Anderson, 799 F.2d 1438, 1441 n.3 (11th

Cir. 1986). "This is especially true of widely publicized or sensational cases." Id. As the court in Harrelson reaffirmed, "[a] federal judge is not the mere moderator of a jury trial; he is its governor for the purpose of insuring its proper conduct." Id.

2. The decision of the Court of Appeals does not represent a departure from the recent precedents of this Court. While having no occasion to address this precise issue, this Court has been careful to distinguish such in-chamber inquiries from "trial proceedings" to which the right of access attaches. Justice Brennan, concurring in the judgment in Richmond Newspapers, supra, was careful to note (448 U.S. at 598 n.23 (Brennan, J. joined by Marshall, J. concurring)):

> [W]hen engaging in interchanges at the bench, the trial judge is not required to allow public or press intrusion upon the

> huddle. Nor does this opinion intimate that judges are restricted in their ability to conduct conferences in chambers, inasmuch as such conferences are distinct from trial proceedings.

The Court in Globe Newspaper Co. v. Superior Court, 457 U.S. 596, 609 n.25 (1982), cited with approval Justice Brennan's comments, referring to "the traditional authority of trial judges to conduct in camera conferences." 7/

7/ This Court has recognized that even a defendant does not possess a constitutional right to attend in camera discussions which occur between a court, counsel, and jurors (United States v. Gagnon, 470 U.S. 522, 527 (1985)):

> The encounter between the judge, the juror, and [the defendant's] lawyer was a short interlude in a complex trial; the conference was not the sort of event which every defendant had a right personally to attend under the Fifth Amendment.

Accord, Rushen v. Spain, 464 U.S. 114, 125-126 (1983) (Stevens, J., concurring) ("[T]he mere occurrence of an ex parte conversation between a trial judge and a juror does not constitute a deprivation of (cont'd.)

3. The Court of Appeals did not, as the petitioners contend, create an entire "class of proceedings outside the First Amendment right of access" (Pet. 13). Indeed, the Court went to great lengths to emphasize that, under circumstances not before it, the First Amendment "might require that proceedings involving the questioning of jurors be held in open court" (Pet.App. 13a, n.5). Because the need for private questioning of the jurors in this case was so obvious, and the "practical difficulties of holding a hearing" (Pet.App. 13a, n.5) were so apparent, the Court did not need in this case to delineate the circumstances under

---

any constitutional right. The defense has no constitutional right to be present at every interaction between a judge and a juror, nor is there a constitutional right to have a court reporter transcribe every such communication.")

which a different resolution might be required. 8/

4. By holding that the First Amendment served as no bar to the District Court's actions, the Court of Appeals simply recognized that the right of the press to publish may not destroy the right to a fair trial. Accord, Mares v. United States, 383 F.2d 805, 809 (10th Cir. 1967). The Sixth Amendment provides that the criminally accused have a right to a panel of impartial jurors. Moreover, this right is a continuing one, assuring a

---

8/ Nor does the Court's rationale carry with it a "potentially broad applicability in the future to other mid-trial proceedings" (Pet. 22) such as motions to exclude evidence. In Rovinsky v. McKaskle, 722 F.2d 197 (5th Cir. 1984), the Fifth Circuit reversed a defendant's conviction on the basis of the trial court's mid-trial closure of a hearing on a motion to limit a witness' cross-examination -- a matter bearing directly on his testimony at trial. As the Fifth Circuit emphasized, the right to a public trial extends to those proceedings which are "an integral part of the trial," such as motions to suppress evidence. 722 F.2d at 201.

defendant a jury unprejudiced by extraneous influence throughout the trial. See Nebraska Press Ass'n v. Stuart, 427 U.S. 539, 555 (1976); Sheppard v. Maxwell, 384 U.S. 333, 362 (1966); United States v. Barshov, 733 F.2d 842 (11th Cir. 1984) cert. denied, 469 U.S. 1158 (1985). It is the court's responsibility to take all necessary steps to ensure that juror impartiality is maintained at all times. See e.g. Remmer v. United States, 347 U.S. 227, 229 (1954) (any private communication, contact, or tampering with juror during criminal trial not made according to court instruction presumptively prejudicial). 9/ While access to those proceedings traditionally open may serve

---

9/ Accord, Chandler v. Florida, 449 U.S. 560, 574 (1981) (dictum) (any highly publicized criminal trial presents risk of compromising defendant's right to a fair trial); United States v. Williams, 568 F.2d 464 (5th Cir. 1978) (prejudice may be presumed in certain egregious "media circus" situations).

to "guard against arbitrary, overreaching, or even corrupt action by participants in judicial proceedings" (Pet.App. 15-16a), the in-chambers inquiry -- and the later release of their transcripts -- served merely to ensure the "paramount interest in maintaining an impartial jury" (Pet.App. 16a).

5. Finally, even if the broad constitutional issue the petitioners seek to present were worthy of this Court's consideration, this case is a peculiarly unsuitable vehicle. The trial judge did not conduct a "secret" proceeding, and was at every stage sensitive to the interests of the news media as well as the interests of the individual jurors and the defendants. At the conclusion of each proceeding in chambers, he described in open court the nature and result of the proceeding (Pet.App. 22a, 24a.) At the close of the trial, he released tran-

scripts of the proceedings with only minor redactions designed to protect the identity of the particular jurors involved and to eliminate counsel's comments made about the credibility of particular jurors. (Pet.App. 30a.) The petitioners do not contend in this Court that any information has been withheld to which they are constitutionally entitled. The trial ended almost two years ago, with acquittal of all defendants, and no relief could be granted to the petitioners even if this Court were to adopt the sweeping constitutional principle they seek to establish. Since the decision below is not in conflict with decisions of any other Circuits, there is simply no good reason for review of the matter by this Court.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

* WILLIAM H. JEFFRESS, JR.
MARY L. LYONS
MILLER, CASSIDY, LARROCA & LEWIN
2555 M Street, N.W.,
Suite 500
Washington, D.C. 20037
(202) 293-6400

Attorneys for Respondent
Ronald F. Falgout

MICHAEL S. FAWER
530 Natchez Street,
Suite 200
New Orleans, LA 70130
(504) 525-1500

Attorney for Respondent
Edwin W. Edwards

* Counsel of Record

February 1988